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To: Commissioner for Patents
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U.S. Serial No. 09/776,466

Filing Date: February 2, 2001

Attorney Docket Number: P-087-US1

Enclosures: Summary of Interview (two pages)

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Dated: Feb. 25, 2004By: 

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Patent
Attorney's Docket No. P-087-US1
Customer Number: 27038

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
)
Burton G. Christensen et al.) Group Art Unit: 1653
)
Application No.: 09/776,466) Examiner: D. Lukton
)
Filed: February 2, 2001)
)
For: GLYCOPEPTIDE DERIVATIVES)
)
)

SUMMARY OF INTERVIEW PURSUANT TO 37 C.F.R. § 1.133(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A telephonic interview was held between the Examiner and the undersigned attorney for Applicants on February 25, 2004, for the above-identified patent application. Pursuant to 37 C.F.R. §1.133(b), the following is a written summary of the issues discussed during the interview.

The pending rejection of Claims 1-18 and 20 under 35 U.S.C. §112, first paragraph, and the response filed on December 19, 2003, were discussed. Specifically, with regard to whether "undue experimentation" is required to determine if the presently claimed compounds exhibit antibacterial activity, Applicants pointed out that the present specification contains detailed examples for conducting antibacterial assays and that one skilled in the art would be readily capable of conducting such assays and interpreting the assay results.

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The Examiner indicated that one or more of the presently claimed compounds might be inactive or that one skilled in the art might not be able to determine if a compound is active because of variability in the test data. The Examiner further indicated that no claims would be allowed unless actual test data were submitted.

Applicants noted that there is no legal requirement for actual data and that one of ordinary skill in the art would be able to make and use the claimed invention based on the specification. Accordingly, Applicants noted that the requirements of 35 U.S.C. §112, first paragraph, have been met.

No agreement was reached on the pending 35 U.S.C. §112, first paragraph rejection.

Applicants believe the above summary is a complete and accurate summary of the telephonic interview held on February 25, 2004. If the Examiner believes there are any misstatements or deficiencies in this summary, the Examiner is respectfully requested to correct any such unintentional or inadvertent errors on the record.

Should there be any questions concerning this paper, the Examiner is requested to telephone the undersigned attorney at (650) 808-6406.

Respectfully submitted,

THERAVANCE, INC.

Date: February 25, 2004

By:

Jeffrey A. Hagenah, Ph.D., Esq.
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